

## **REMARKS**

Claims 21-40 are pending in the application. Claim 40 has been amended to correct a minor informality. No new matter has been added. Reconsideration is respectfully requested in view of the remarks below.

### **I. Claim Objections**

Claim 40 was objected to as incorrectly depending from claim 25. Applicant has amended claim 40 to correctly depend from claim 39 as recognized by the Examiner. Applicant, therefore, respectfully requests withdrawal of the objections to the claims.

### **II. The § 103 Rejections**

Claims 21-24, 27-31, and 34-38 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,526,575 to McCoy et al. (“McCoy”) in view of U.S. Patent No. 5,099,319 to Esch et al. (“Esch”).

Claims 25, 32, and 39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over McCoy and Esch, in view of U.S. Patent No. 5,920,700 to Gordon et al. (“Gordon”).

Claims 26, 33, and 40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over McCoy, Esch, and Gordon, in view of U.S. Patent No. 6,253,079 to Valentine et al. (“Valentine”).

Applicant respectfully traverses the rejections.

Claim 21 recites a method for controlling insertion of a plurality of local spots into a program feed through a central site server located at a central control site. The method includes distributing the plurality of local spots from the central site server to one or more remote site servers prior to playout of the program feed. The method further includes sending a plurality of control parameters from the central site server to each of the one or more remote site servers.

The program feed is transmitted from the central site server to each of the one or more remote site servers, and each of the remote site servers automatically switches between playout of the program feed and playout of each local spot in accordance with the plurality of control parameters received from the central site server.

A potential advantage of such a method is that the integrity of a (national) television program feed can be maintained through centralized control of a channel's programming (playout) through a central control site, which also prevents local affiliates from tampering with the programming (see specification, page 2, lines 11-13).

*A. McCoy Fails To Disclose Distributing a Plurality of Local Spots From a Central Site Server To One or More Remote Site Servers Prior To Playout of a Program Feed*

McCoy discloses a multimedia distribution and broadcast system for transmitting multimedia contents and control information from a central uplink facility 102 to a remote downlink facility 106 via a satellite 104 (col. 4, ll. 9-15; FIG. 1). McCoy, however, fails to disclose distributing a plurality of local spots from a central site server to one or more remote site servers prior to playout of a program feed (emphasis added).

The Examiner asserts that McCoy is silent on distributing local spots from a central site server to one or more remote site servers (see Action page 4, point 4). Applicant respectfully disagrees. McCoy is not silent with respect distribution of local spots, rather, McCoy clearly discloses that local spots are not distributed from a central site server. Specifically, McCoy discloses that the downlink facility 106 includes a downlink database 130 that stores local media 426 (col. 13, ll. 7-10 and 28-46). The local media 426 includes advertising for local retailers or television programs, and the local media 426 is entered locally into data transmitted from the

central uplink facility 102 at the remote downlink facility 106 (emphasis added) (col. 13, ll. 47-56). Consequently, the local media 426 (which includes advertising for local retailers or television programs) is not received from (nor distributed from) the central uplink facility 102.

The Examiner recognizes that McCoy fails to disclose distributing a plurality of local spots from a central site server to one or more remote site servers prior to playout of a program feed. The Examiner, however, asserts that these limitations, as well as further limitations absent from McCoy and recited in claim 21, are disclosed by Esch.

*B. Esch Fails To Disclose Distributing a Plurality of Local Spots From a Central Site Server To One or More Remote Site Servers Prior To Playout of a Program Feed*

Esch discloses a satellite advertising distribution system that allows customizing the advertisement at each ground terminal (col. 1, ll. 6-9). In particular, Esch discloses an advertising delivery network that distributes television commercials from a central site through a satellite network to remote sites (col. 3, ll. 15-20, FIG. 1).

The commercials distributed to the remote site from the central site, however, are not local spots. Instead, the commercials distributed from Esch's central site are standard (e.g., national commercials). The standard commercials sent from Esch's central site are not customized until the commercials reach a remote site where a communications processor customizes the commercials through tagging (col. 4, ll. 63-66). Each of Esch's remote sites includes a video tape recorder 107 that provides for insertion of locally produced content (col. 9, ll. 16-19). Such locally originated content can be combined with a customized commercial as appropriate (col. 1, ll. 45-49). Esch fails to disclose that the locally produced content is received from the central site. Accordingly, Esch (as with McCoy) fails to disclose distributing a plurality of local spots from a central site server to one or more remote site servers prior to playout of a

program feed, as required by claim 21. Further, because Esch permits locally originated content to be combined with a commercial at a remote site, the integrity of a (national) television program feed cannot be maintained through centralized control, which is an advantage of Applicant's invention as claimed.

Because neither Esch nor McCoy discloses distributing a plurality of local spots from a central site server to one or more remote site servers prior to playout of a program feed, the systems disclosed by Esch and McCoy cannot be used to maintain the integrity of a (national) television program feed through a central control site, which is an advantage of Applicant's invention. That is, McCoy's central uplink facility does not have control over the local media 426, and Esch's central site does not have control over locally produced content.

*C. Valentine Fails To Disclose Distributing a Plurality of Local Spots From a Central Site Server To One or More Remote Site Servers Prior To Playout of a Program Feed*

Valentine discloses a method for optimizing satellite resources to prevent overconsumption of the satellite resources (see Abstract). However, Valentine fails to disclose distributing a plurality of local spots from a central site server to one or more remote site servers prior to playout of a program feed, as required by claim 21.

*D. The claim has limitations not taught by either reference*

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.

Neither McCoy, Esch, nor Valentine (either alone or in combination) discloses distributing a plurality of local spots from a central site server to one or more remote site servers

prior to playout of a program feed. Consequently, any combination of McCoy, Esch, and Valentine cannot render claim 21 obvious.

*E. No Motivation To Combine References*

Prior art references must be considered in their entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983).

Applicant respectfully submits that there is no motivation to combine McCoy and Esch. Even assuming *arguendo* that Esch discloses distributing a plurality of local spots from a central site server to one or more remote site servers prior to playout of a program feed (which Applicant does not concede), McCoy clearly teaches away from doing such, as discussed above. McCoy clearly discloses local media 426 that is not received from a central site. Accordingly, Applicant respectfully submits that there is no motivation to combine McCoy and Esch.

The Examiner asserts that “the mere fact that McCoy teaches alternative means for receiving local media does not preclude modifying McCoy by receiving local media from other sources, such as taught by Esch”. Applicant respectfully disagrees.

McCoy teaches that while multimedia distribution systems are welcomed by (local) cable operators (col. 1, ll. 35-41), cable operators seek more sophisticated scheduling capabilities for promotions in order to maximize returns from their advertisements (col. 1, ll. 52-56). Further, McCoy teaches that cable operators have limited ways to input their preferences that determine the types of promotions to be broadcast to their particular subscribers (col. 1, ll. 63-66). To remedy such problems, McCoy teaches having local commercials entered locally by each cable operator – i.e., McCoy teaches that local media 426 can be combined with data received from a central uplink facility to permit advertising for local retailers or television programs to be viewed

by customers of a cable operator (col. 13, ll. 47-56). McCoy teaches away from distribution of local media through a central site server.

*F. Other Independent Claims*

Claims 28 and 35 each incorporates limitations similar to those of claim 21. Claims 28 and 35 (and the claims that depend therefrom) are also allowable over the references cited above for reasons corresponding to those set forth with respect to claim 21.

Applicant submits that claims 21-40 are allowable over the cited references, and are in condition for allowance. Should any unresolved issues remain, the Examiner is invited to call the undersigned at the telephone number indicated below.

Respectfully submitted,  
SAWYER LAW GROUP LLP



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Date

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